

**Kansas Administrative Regulations
Economic Impact Statement
For the Kansas Division of the Budget**

KDHE/Bureau of Community Health Systems
Agency

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Agency Contact

785-296-1291
Contact Phone Number

28-35-146a and 28-35-147a
K.A.R. Number(s)

Submit a hard copy of the proposed rule(s) and regulation(s) and any external documents that the proposed rule(s) and regulation(s) would adopt, along with the following to:

Division of the Budget
900 SW Jackson, Room 504-N
Topeka, KS 66612

I. Brief description of the proposed rule(s) and regulation(s).

KAR 28-35-146a and KAR 28-35-147a raise the fees charged for radioactive materials licenses in Kansas and x-ray registrants to the maximum as allowed by statute. Kansas is an Agreement State. This means that Kansas has entered into an Agreement with the Nuclear Regulatory Commission (NRC) which gives the Kansas Department of Health and Environment (KDHE) the authority to license and inspect radioactive material used or possessed within the state. The Radiation Control Program works under the oversight of the NRC, must remain compatible with the federal program, and receives periodic audits and inspections by the NRC. To carry out the responsibilities of the Nuclear Energy Development and Radiation Control Act, K.S.A. 48-1601, et seq., and amendments thereto, (the Act), K.S.A. 48-1606 addresses collection of fees as follows: “(c)(7) The secretary may: fix, charge and collect fees for licenses and registration, and renewals thereof, issued under the nuclear energy development and radiation control act to cover all or any part of the cost of administering such act” Maximum fees are listed in the statute and the actual fees are listed in the regulations. All fees collected are deposited into the Radiation Control Program fee fund.

KDHE is requesting the fees listed in K.A.R. 28-35-147a be raised to be equal to the maximum fee as listed in statute. The last fee increase went into effect in 2013 and was at that time estimated to be sufficient for five years. The agency has reached that five-year estimate and an increase in fees is needed to maintain the program. It is also important to note that raising Kansas fees to the maximum currently listed in the statute will still leave comparable NRC fees at an average of between 7% and 30% higher than the corresponding Kansas fees.

If Kansas were not an Agreement State, the much higher NRC fees would be charged to all the radioactive materials licensees. It is to the financial benefit of all Kansas radioactive materials licensees that Kansas maintains the regulatory oversight of these materials rather than the NRC. To maintain Kansas as an Agreement State with the NRC, the Radiation Control Program must meet adequacy and compatibility requirements. Those requirements include, but are not limited to, maintaining the technical quality of inspections, licensing, and incident and allegation inspections. The current fee structure is not keeping pace with the expense of meeting these requirements.

K.A.R. 28-35-147a also includes a description of the new provision to change the method of charging radioactive materials license fees to those facilities which have multiple sites of use. In accordance with 2018 HB 2600, an additional 50% of the license fee is added to the total radioactive materials license fee for each additional site of use. This regulation also raises the fees charged to x-ray registrants to the maximum allowed by statute. The

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fee for an x-ray facility to register will be raised from \$135.00 to \$200.00 and the fee for each additional x-ray tube will be raised from \$35.00 to \$50.00. The current fee structure is not keeping pace with the costs to support the salaries and travel of KDHE x-ray compliance inspectors to inspect all Kansas facilities and accomplish all the other duties associated with regulation of x-ray devices. The x-ray program in particular requires one additional FTE inspector to ensure all x-ray systems in Kansas are inspected at least once every five years, with the higher dose x-ray systems having a more frequent inspection schedule.

II. Statement by the agency if the rule(s) and regulation(s) is mandated by the federal government and a statement if approach chosen to address the policy issue is different from that utilized by agencies of contiguous states or the federal government. (If the approach is different, then include a statement of why the Kansas rule and regulation proposed is different)

Under the NRC-Kansas delegation agreements, the state of Kansas is required to have adequate funding and staff resources and to maintain regulations, inspection, and licensing which are compatible with the NRC to retain KDHE's authority under the Agreement. Specific fees are not mandated by the NRC. These proposed amendments, while fiscal in nature, will enable the state to retain that Agreement State authority by meeting the NRC requirement to implement the program. This approach is identical to the practice of contiguous states which have Agreement State status with the NRC (Note: Missouri is not an Agreement State, and therefore their radioactive materials license fees are the much higher NRC fees).

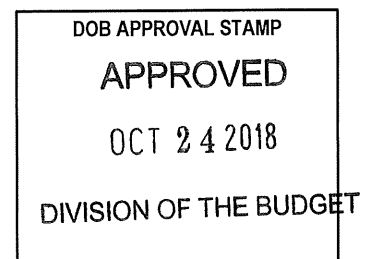
III. Agency analysis specifically addressing following:

A. The extent to which the rule(s) and regulation(s) will enhance or restrict business activities and growth;

The Radiation Control Program, located within the KDHE Bureau of Community Health Systems, has the statutory authority to perform all functions and duties as necessary to meet the requirements set forth in the Act. Ensuring the fees are sufficient to cover the expenses of the agency in accomplishing the statutory requirements will be a benefit to Kansas by ensuring that Kansas remains an Agreement State rather than falling back under the authority of the NRC. This helps grow the Kansas economy by keeping the fees lower than would be charged by the NRC. The program continually works to preserve resources and protect Kansas families by ensuring that the medical and industrial uses of radioactive material are performed safely to ensure the lowest achievable dose to workers, patients, and residents while protecting the environment from contamination. The fee increase to x-ray registrants is minimal and is not anticipated to have a fiscal impact which restricts business activities or growth for any medical or industrial facilities utilizing x-ray machines.

B. The economic effect, including a detailed quantification of implementation and compliance costs, on the specific businesses, sectors, public utility ratepayers, individuals, and local governments that would be affected by the proposed rule and regulation and on the state economy as a whole;

The fees charged by the Radiation Control Program as listed in these proposed regulations are reasonable and comparable to fees being charged to maintain radiation control programs in other states. The Radiation Control Program fees as included in these proposed regulations are significantly less than the fees charged by the NRC. The following tables include a comparison of selected



radioactive materials fees charged by various states and the NRC and a comparison of Kansas x-ray fees with other neighboring states:

KANSAS RADIATION FEES COMPARISON TABLE

Type of Fee	Kansas*	Iowa**	Nebraska	Oklahoma	Minnesota***	Texas****	Colorado*****	NRC*****
Academia – Broad Scope	\$5900	\$10500	\$18000	\$5320	\$19920	\$23810	\$11605	\$25900
Civil Defense	\$650	\$1000	\$1100	\$1725	NA	NA	\$1270	\$7600
Industrial Radiography	\$6100	\$4300	\$6500	\$13500	\$9840	\$8490- \$17870	\$14540	\$27000
Industrial Portable Gauge	\$1250	\$650	\$1500	\$1590	\$2000	\$3240	\$2790	\$9300
Industrial Fixed Gauge	\$1250	\$650	\$1500	\$1590	\$2000	\$3410	\$2790	\$9300
Medical – Broad Scope	\$12350	NA	\$18000	\$22720	\$19920	\$23810	\$28015	\$33800
Medical – Institution	\$2300	\$2000	\$3900	\$22720	\$3680	\$3620	\$5335	\$14700
Research & Development	\$5900	\$2500	\$3800	\$11790	\$9520	\$5970	\$5110	\$25900
Service Provider	\$3050	\$650	\$4300	\$5900	\$4960	\$1460- \$3600	\$5560	\$25900
Well Logging	\$2350	NA	\$2500	\$7910	\$3760	\$5920	\$10200	\$16000
Reciprocity	\$750	\$1800	\$750- \$2900	\$2880- \$4030	\$1200	Same as above	75% of above	Same as above
x-ray Facility	\$200		\$70-\$500		\$100		\$50	
x-ray Machine		\$29- \$102			\$40-\$100	\$290- \$1910	\$60	
x-ray Tube	\$50			\$30-\$95				

*Kansas fees as listed in the proposed regulation which are equal to the maximum allowed by statute.

**Iowa charges a fee of \$400 for each license amendment.

***Minnesota charges a fee of \$300 for each license amendment. Minnesota charges a late fee for x-ray registration of 25% of the x-ray fee.

****Texas charges 25% of applicable fee not to exceed 50 additional sites for additional authorized use sites where radioactive material is stored or used under the same license or where only records are stored. Texas x-ray fees are for a two-year period.

*****Colorado charges inspection fees ranging from \$1950 - \$7335.

*****10 CFR 171.16 - NRC charges \$304 for each new license application in addition to the required annual fee. NRC also charges \$189 per hour of direct staff time associated with the review for an expedited license review

C. Businesses that would be directly affected by the proposed rule and regulation;

The costs will be borne by the regulated community in Kansas which consists of 270 facilities licensed to use radioactive materials and 2,634 facilities registered to use x-ray equipment. These facilities include academic institutions, industrial/construction operations, research labs, medical and dental facilities, and security screening operations.

D. Benefits of the proposed rule(s) and regulation(s) compared to the costs;

The radioactive materials license fees as listed in K.A.R. 28-35-147a were last raised in 2013. At that time, testimony was provided that those fee increases should be sufficient to cover program expenses for five years. Staff at that time failed to take into account indirect costs associated with fee funds. Because of that, the program has continuously been behind in covering their indirect cost requirements and still meet other program expenses. At the current fee structure and taking into account the increased salary costs and travel costs associated with inspector time and travel, and the increased overhead costs of maintaining the program office and computer facilities, the program is unable to meet all its expenses. This fee increase is projected to be sufficient to cover program operation costs and indirect costs for at least three years, which is critical to maintain compatibility with the NRC and keep Agreement State status and regulatory authority over licensed radioactive materials for Kansas.

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E. Measures taken by the agency to minimize the cost and impact of the proposed rule(s) and regulation(s) on business and economic development within the State of Kansas, local government, and individuals;

Fees will increase as described for radioactive materials licensees and x-ray registrants. Kansas radioactive materials license fees remain lower than those charged by the NRC in non-agreement states and lower than all neighboring Agreement States.

F. An estimate, expressed as a total dollar figure, of the total annual implementation and compliance costs that are reasonably expected to be incurred by or passed along to business, local governments, or members of the public.

There are no implementation costs besides the increase in fees. The increase is estimated to be approximately \$111,000.00 for all radioactive materials licensees and \$303,235.00 for all x-ray registrants in Kansas.

Do the above total implementation and compliance costs exceed \$3.0 million over any two-year period?

YES ☐ NO ☒

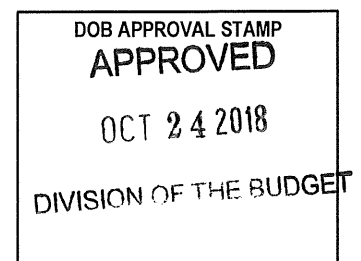
Give a detailed statement of the data and methodology used in estimating the above cost estimate.

A fiscal comparison was made for all Kansas radioactive materials licensees and x-ray registrants between what is currently paid annually and how much would be the fee increase difference annually if these regulations are adopted.

Prior to the submission or resubmission of the proposed rule(s) and regulation(s), did the agency hold a public hearing if the total implementation and compliance costs exceed \$3.0 million over any two-year period to find that the estimated costs have been accurately determined and are necessary for achieving legislative intent? If applicable, document when the public hearing was held, those in attendance, and any pertinent information from the hearing.

YES ☐ NO ☒ This is not applicable.

G. If the proposed rule(s) and regulation(s) increases or decreases revenues of cities, counties or school districts, or imposes functions or responsibilities on cities, counties or school districts that will increase expenditures or fiscal liability, describe how the



state agency consulted with the League of Kansas Municipalities, Kansas Association of Counties, and/or the Kansas Association of School Boards.

The proposed regulations will have no effect on the cities, counties or school districts within the state. However, when the notice of hearing for these regulations is published in the *Kansas Register*, standard agency procedure will be followed and the three organizations will be contacted electronically for comment with attached copies of the regulations, economic impact statement, and published notice of hearing.

H. Describe how the agency consulted and solicited information from businesses, associations, local governments, state agencies, or institutions and members of the public that may be affected by the proposed rule(s) and regulation(s).

The agency posted an Information Notice on the KDHE/Radiation Control website, informing licensees and registrants about the proposed regulations to increase fees. The Information Notice referenced the contact person and number for comments or questions and advised that the notice of hearing, proposed regulations and economic impact statement will be posted on the KDHE/Radiation Control website. An email was sent to all radioactive materials licensees and x-ray registrants which included information and a link to this information notice.

I. For environmental rule(s) and regulation(s) describe the costs that would likely accrue if the proposed rule(s) and regulation(s) are not adopted, as well as the persons would bear the costs and would be affected by the failure to adopt the rule(s) and regulation(s).

These are public health regulations that will protect the health of Kansans and help protect the environment from contamination.

